

methods of administration. If the Bureau concludes that the alternative methods satisfy the criteria in section 7513, it will so notify the State agency. If the Bureau does not so conclude, it will submit to the Secretary the results of the study for his determination of whether the State's alternative methods of administration meet the criteria.*

PART 615—EXTENDED BENEFITS IN THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

Sec.

- 615.1 Purpose.
- 615.2 Definitions.
- 615.3 Effective period of the program.
- 615.4 Eligibility requirements for Extended Benefits.
- 615.5 Definition of "exhaustee."
- 615.6 Extended Benefits; weekly amount.
- 615.7 Extended Benefits; maximum amount.
- 615.8 Provisions of State law applicable to claims.
- 615.9 Restrictions on entitlement.
- 615.10 Special provisions for employers.
- 615.11 Extended Benefit Periods.
- 615.12 Determination of "on" and "off" indicators.
- 615.13 Announcement of the beginning and ending of Extended Benefit Periods.
- 615.14 Payments to States.
- 615.15 Records and reports.

AUTHORITY: 26 U.S.C. 7805; 42 U.S.C. 1102; Secretary's Order No. 4-75 (40 FR 18515).

SOURCE: 53 FR 27937, July 25, 1988, unless otherwise noted.

§ 615.1 Purpose.

The regulations in this part are issued to implement the "Federal-State Extended Unemployment Compensation Act of 1970" as it has been amended, which requires, as a condition of tax offset under the Federal Unemployment Tax Act (26 U.S.C. 3301 *et seq.*), that a State unemployment compensation law provide for the payment of extended unemployment compensation during periods of high unemployment to eligible individuals as prescribed in the Act. The benefits provided under State law, in accordance with the Act and this part, are hereafter referred to as Extended Benefits, and the program is referred to as the Extended Benefit Program.

*Revises section 7513 as issued 5/5/50.

§ 615.2 Definitions.

For the purposes of the Act and this part—

(a) *Act* means the "Federal-State Extended Unemployment Compensation Act of 1970" (title II of Pub. L. 91-373; 84 Stat. 695, 708), approved August 10, 1970, as amended from time to time, including the 1980 amendments in section 416 of Pub. L. 96-364 (94 Stat. 1208, 1310), approved September 26, 1980, and in sections 1022 and 1024 of Pub. L. 96-499 (94 Stat. 2599, 2656, 2658) approved December 5, 1980, and the 1981 amendments in sections 2401 through 2404 and section 2505(b) of Pub. L. 97-35 (95 Stat. 357, 874-875, 884) approved August 13, 1981, and the 1982 amendment in section 191 of Pub. L. 97-248 (96 Stat. 324, 407) approved September 3, 1982, and the 1983 amendment in section 522 of Pub. L. 98-21 (97 Stat. 65, 148) approved April 20, 1983.

(b) *Base period* means, with respect to an individual, the base period as determined under the applicable State law for the individual's applicable benefit year.

(c)(1) *Benefit year* means, with respect to an individual, the benefit year as defined in the applicable State law.

(2) *Applicable benefit year* means, with respect to an individual, the current benefit year if, at the time an initial claim for Extended Benefits is filed, the individual has an unexpired benefit year only in the State in which such claim is filed, or, in any other case, the individual's most recent benefit year. For this purpose, the most recent benefit year for an individual who has unexpired benefit years in more than one State when an initial claim for Extended Benefits is filed, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed. The individual's most recent benefit year which expires in an Extended Benefit Period is the applicable benefit year if the individual cannot establish a second benefit year or is precluded from receiving regular compensation in a second benefit year solely by reason of a State law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)(7)).

(d) *Compensation and unemployment compensation* means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular compensation, additional compensation and extended compensation as defined in this section.

(e) *Regular compensation* means compensation payable to an individual under a State law, and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85, but does not include extended compensation or additional compensation.

(f) *Additional compensation* means compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85.

(g) *Extended compensation* means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an Extended Benefit Period, under those provisions of a State law which satisfy the requirements of the Act and this part with respect to the payment of extended unemployment compensation, and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85, but does not include regular compensation or additional compensation. Extended compensation is referred to in this part as Extended Benefits.

(h) *Eligibility period* means, with respect to an individual, the period consisting of—

(1) The weeks in the individual's applicable benefit year which begin in an Extended Benefit Period, or with respect to a single benefit year, the weeks in the benefit year which begin in more than one Extended Benefit Period, and

(2) If the applicable benefit year ends within an Extended Benefit Period, any weeks thereafter which begin in such Extended Benefit Period, but an individual may not have more than one eligibility period with respect to any one exhaustion of regular benefits, or carry over from one eligibility period to another any entitlement to Extended Benefits.

(i) *Sharable compensation* means:

(1) Extended Benefits paid to an eligible individual under those provisions of a State law which are consistent with the Act and this part, and that does not exceed the smallest of the following:

(i) 50 percent of the total amount of regular compensation payable to the individual during the applicable benefit year; or

(ii) 13 times the individual's weekly amount of Extended Benefits payable for a week of total unemployment, as determined pursuant to § 615.6(a); or

(iii) 39 times the individual's weekly benefit amount, referred to in (ii), reduced by the regular compensation paid (or deemed paid) to the individual during the applicable benefit year; and

(2) Regular compensation paid to an eligible individual with respect to weeks of unemployment in the individual's eligibility period, but only to the extent that the sum of such compensation, plus the regular compensation paid (or deemed paid) to the individual with respect to prior weeks of unemployment in the applicable benefit year, exceeds 26 times and does not exceed 39 times the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to the individual under the State law in such benefit year: *Provided*, that such regular compensation is paid under provisions of a State law which are consistent with the Act and this part.

(3) Notwithstanding the preceding provisions of this paragraph, sharable compensation shall not include any regular or extended compensation with respect to which a State is not entitled to a payment under section 202(a)(6) or 204 of the Act or § 615.14 of this part.

(j)(1) *Secretary* means the Secretary of Labor of the United States.

(2) *Department* means the United States Department of Labor, and shall include the Employment and Training Administration, the agency of the United States Department of Labor headed by the Assistant Secretary of Labor for Employment and Training to whom has been delegated the Secretary's authority under the Act in Secretary's Order No. 4-75 (40 FR 18515) and Secretary's Order No. 14-75.

§615.2

20 CFR Ch. V (4-1-16 Edition)

(k)(1) *State* means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the U. S. Virgin Islands.

(2) *Applicable State* means, with respect to an individual, the State with respect to which the individual is an “exhaustee” as defined in §615.5, and in the case of a combined wage claim for regular compensation, the term means the “paying State” as defined in §616.6(e) of this chapter.

(3) *State agency* means the State unemployment compensation agency of a State which administers the State law.

(l)(1) *State law* means the unemployment compensation law of a State, approved by the Secretary under section 3304(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)).

(2) *Applicable State law* means the law of the State which is the applicable State for an individual.

(m)(1) *Week* means, for purposes of eligibility for and payment of Extended Benefits, a week as defined in the applicable State law.

(2) *Week* means, for purposes of computation of Extended Benefit “on” and “off” and “no change” indicators and insured unemployment rates and the beginning and ending of Extended Benefit Periods, a calendar week.

(n)(1) *Week of unemployment* means a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent to the Extended Benefit Program as if the individual filing a claim for Extended Benefits were filing a claim for regular compensation, except as provided in paragraph (n)(2) of this section.

(2) *Week of unemployment* in section 202(a)(3)(A) of the Act means a week of unemployment, as defined in paragraph (n)(1) of this section, for which the individual claims Extended Benefits or sharable regular benefits.

(o) For the purposes of section 202(a)(3) of the Act—

(1) *Employed*, for the purposes of section 202(a)(3)(B)(ii) of the Act, and *employment*, for the purposes of section 202(a)(4) of the Act, means service performed in an employer-employee relationship as defined in the State law; and that law also shall govern whether

that service must be covered by it, must consist of consecutive weeks, and must consist of more weeks of work than are required under section 202(a)(3)(B) of the Act;

(2) *Individual’s capabilities*, for the purposes of section 202(a)(3)(C), means work which the individual has the physical and mental capacity to perform and which meets the minimum requirements of section 202(a)(3)(D);

(3) *Reasonably short period*, for the purposes of section 202(a)(3)(C), means the number of weeks provided by the applicable State law;

(4) *Average weekly benefit amount*, for the purposes of section 202(a)(3)(D)(i), means the weekly benefit amount (including dependents’ allowances payable for a week of total unemployment and before any reduction because of earnings, pensions or other requirements) applicable to the week in which the individual failed to take an action which results in a disqualification as required by section 202(a)(3)(B) of the Act;

(5) *Gross average weekly remuneration*, for the purposes of section 202(a)(3)(D)(i), means the remuneration offered for a week of work before any deductions for taxes or other purposes and, in case the offered pay may vary from week to week, it shall be determined on the basis of recent experience of workers performing work similar to the offered work for the employer who offered the work;

(6) *And*, as used in section 202(a)(3)(D)(ii), shall be interpreted to mean “or”;

(7) *Provisions of the applicable State law*, as used in section 202(a)(3)(D)(iii), include statutory provisions and decisions based on statutory provisions, such as not requiring an individual to take a job which requires traveling an unreasonable distance to work, or which involves an unreasonable risk to the individual’s health, safety or morals; and such provisions shall also include labor standards and training provisions required under sections 3304(a)(5) and 3304(a)(8) of the Internal Revenue Code of 1986 and section 236(e) of the Trade Act of 1974;

(8) A *systematic and sustained effort*, for the purposes of section 202(a)(3)(E), means—

(i) A high level of job search activity throughout the given week, compatible with the number of employers and employment opportunities in the labor market reasonably applicable to the individual,

(ii) A plan of search for work involving independent efforts on the part of each individual which results in contacts with persons who have the authority to hire or which follows whatever hiring procedure is required by a prospective employer in addition to any search offered by organized public and private agencies such as the State employment service or union or private placement offices or hiring halls,

(iii) Actions by the individual comparable to those actions by which jobs are being found by people in the community and labor market, but not restricted to a single manner of search for work such as registering with and reporting to the State employment service and union or private placement offices or hiring halls, in the same manner that such work is found by people in the community,

(iv) A search not limited to classes of work or rates of pay to which the individual is accustomed or which represent the individual's higher skills, and which includes all types of work within the individual's physical and mental capabilities, except that the individual, while classified by the State agency as provided in § 615.8(d) as having "good" job prospects, shall search for work that is suitable work under State law provisions which apply to claimants for regular compensation (which is not sharable),

(v) A search by every claimant, without exception for individuals or classes of individuals other than those in approved training, as required under section 3304(a)(8) of the Internal Revenue Code of 1986 or section 236(e) of the Trade Act of 1974,

(vi) A search suspended only when severe weather conditions or other calamity forces suspension of such activities by most members of the community, except that

(vii) The individual, while classified by the State agency as provided in § 615.8(d) as having "good" job prospects, if such individual normally obtains customary work through a hiring

hall, shall search for work that is suitable work under State law provisions which apply to claimants for regular compensation (which is not sharable);

(9) *Tangible evidence* of an active search for work, for the purposes of section 202(a)(3)(E), means a written record which can be verified, and which includes the actions taken, methods of applying for work, types of work sought, dates and places where work was sought, the name of the employer or person who was contacted and the outcome of the contact;

(10) *Date* of a disqualification, as used in section 202(a)(4), means the date the disqualification begins, as determined under the applicable State law;

(11) *Jury duty*, for purposes of section 202(a)(3)(A)(ii), means the performance of service as a juror, during all periods of time an individual is engaged in such service, in any court of a State or the United States pursuant to the law of the State or the United States and the rules of the court in which the individual is engaged in the performance of such service; and

(12) *Hospitalized for treatment of an emergency or life-threatening condition*, as used in section 202(a)(3)(A)(ii), has the following meaning: "Hospitalized for treatment" means an individual was admitted to a hospital as an inpatient for medical treatment. Treatment is for an "emergency or life threatening condition" if determined to be such by the hospital officials or attending physician that provide the treatment for a medical condition existing upon or arising after hospitalization. For purposes of this definition, the term "medical treatment" refers to the application of any remedies which have the objective of effecting a cure of the emergency or life-threatening condition. Once an "emergency condition" or a "life-threatening condition" has been determined to exist by the hospital officials or attending physician, the status of the individual as so determined shall remain unchanged until release from the hospital.

(p)(1) *Claim filed in any State under the interstate benefit payment plan*, as used in section 202(c), means any interstate claim for a week of unemployment filed pursuant to the Interstate Benefit Payment Plan, but does not include—

§615.3

20 CFR Ch. V (4–1–16 Edition)

(i) A claim filed in Canada,
(ii) A visiting claim filed by an individual who has received permission from his/her regular reporting office to report temporarily to a local office in another State and who has been furnished intrastate claim forms on which to file claims, or

(iii) A transient claim filed by an individual who is moving from place to place searching for work, or an intrastate claim for Extended Benefits filed by an individual who does not reside in a State that is in an Extended Benefit Period,

(2) *The first 2 weeks*, as used in section 202(c), means the first two weeks for which the individual files compensable claims for Extended Benefits under the Interstate Benefit Payment Plan in an agent State in which an Extended Benefit Period is not in effect during such weeks, and

(q) *Benefit structure* as used in section 204(a)(2)(D), for the requirement to round down to the “nearest lower full dollar amount” for Federal reimbursement of sharable regular and sharable extended compensation means all of the following:

- (1) Amounts of regular weekly benefit payments,
- (2) Amounts of additional and extended weekly benefit payments,
- (3) The State maximum or minimum weekly benefit,
- (4) Partial and part-total benefit payments,
- (5) Amounts payable after deduction for pensions, and
- (6) Amounts payable after any other deduction required by State law.

[53 FR 27937, July 25, 1988, as amended at 71 FR 35514, June 21, 2006]

§615.3 Effective period of the program.

An Extended Benefit Program conforming with the Act and this part shall be a requirement for a State law effective on and after January 1, 1972, pursuant to section 3304(a)(11) of the Internal Revenue Code of 1986, (26 U.S.C. 3304(a)(11)). Continuation of the program by a State in conformity and substantial compliance with the Act and this part, throughout any 12-month period ending on October 31 of a year subsequent to 1972, shall be a condition

of the certification of the State with respect to such 12-month period under section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)). Conformity with the Act and this part in the payment of regular compensation and Extended Benefits to any individual shall be a continuing requirement, applicable to every week as a condition of a State’s entitlement to payment for any compensation as provided in the Act and this part.

§615.4 Eligibility requirements for Extended Benefits.

(a) *General*. An individual is entitled to Extended Benefits for a week of unemployment which begins in the individual’s eligibility period if, with respect to such week, the individual is an exhaustee as defined in §615.5, files a timely claim for Extended Benefits, and satisfies the pertinent requirements of the applicable State law which are consistent with the Act and this part.

(b) *Qualifying for Extended Benefits*. The State law shall specify whether an individual qualifies for Extended Benefits by earnings and employment in the base period for the individual’s applicable benefit year as required by section 202(a)(5) of the Act, (and if it does not also apply this requirement to the payment of sharable regular benefits, the State will not be entitled to a payment under §615.14), as follows:

(1) One and one-half times the high quarter wages; or

(2) Forty times the most recent weekly benefit amount, and if this alternative is adopted, it shall use the weekly benefit amount (including dependents’ allowances) payable for a week of total unemployment (before any reduction because of earnings, pensions or other requirements) which applied to the most recent week of regular benefits; or

(3) Twenty weeks of full-time insured employment, and if this alternative is adopted, the term “full-time” shall have the meaning provided by the State law.

§615.5 Definition of “exhaustee.”

(a)(1) “Exhaustee” means an individual who, with respect to any week